

10/20/08 (16)

143

Site Plan Special Permit – 133 Great Road
133 Great Road
October 20, 2008



Board of Selectmen

TOWN OF ACTON
472 Main Street
Acton, Massachusetts 01720
Telephone (978) 264-9612
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DECISION

#07/03/08-415

133 Great Road

Site Plan Special Permit
October 20, 2008

GRANTED with Conditions

Decision of the Acton Board of Selectmen (hereinafter the Board) on the application of Mini-Warehouse Realty, LLC. (hereinafter the Applicant) for the property located at 133 Great Road in Acton, Massachusetts, owned by Mini-Warehouse Realty, LLC. of 198 Great Road. The property is shown on the 2007 Acton Town Atlas; map F-4 as parcel 69 (hereinafter the Site).

This Decision is in response to an application for a site plan special permit, submitted to the Board on July 2, 2008, pursuant to Section 10.4 of the Acton Zoning Bylaw (hereinafter the Bylaw) and the Rules and Regulations (hereinafter the Rules) to obtain site plan approval in accordance with Section 3.5.6 for a combined business and dwelling use. The Board opened a duly noticed public hearing on August 11, 2008, at which time the matter was immediately continued without discussion and rescheduled to September 8, 2008.

Board members Lauren Rosenzweig (Chair), Paulina Knibbe (Vice Chair), Peter Berry, and Andrew Magee were present throughout the hearing on September 8, 2008. The minutes of the hearing and submissions on which this decision is based upon may be referred to in the Town Clerk's office or the office of the Board at the Acton Town Hall.

1 **EXHIBITS**

Submitted for the Board's deliberation were the following exhibits:

- 1.1 A properly executed application for site plan special permit was received July 10, 2008 and entitled "Site Plan Special Permit Application for 133 Great Road, Acton, MA" dated July 3, 2008, prepared by and with plans drawn by Stamski & McNary, Inc. of 80 Harris Street, Acton, MA 01720. The plans submitted comprise 4 drawing sheets produced by Stamski & McNary, Inc. dated June 20, 2008; a landscape plan produced by Lorayne Black, ASLA Landscape Architect dated March 12, 2008; a lighting plan produced by RUUD Lighting dated April 10, 2008; and five Architectural Plan sheets (A-1 through A-5) by E.J. Rempelakis Associates, dated May 27, 2008 with sheets A-3 through A-5 revised and stamped received October 17, 2008 by the Acton Planning Department.

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- Additional information included in the submitted application consisted of the following:
- Certified Abutters List
 - Use Description & Project Summary
 - List of Other Permits and Variances Required
 - Recorded Plans
 - Quitclaim Deed
 - Drainage Calculations
 - Water Balance Calculations
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- 1.2 Interdepartmental communication was received from:
- Acton Water Supply District, dated July 17, 2008;
 - Acton Health Director, dated August 8, 2008;
 - Acton Tree Warden & Municipal Properties Director, dated July 28, 2008;
 - Acton Engineering Department, dated July 22, 2008; and
 - Acton Planning Department, dated August 7, 2008.
 - Acton Design Review Board, August 8, 2008, September 5, 2008, and October 15, 2008

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- 1.3 Other Correspondence received from:
- Report on Groundwater Protection District Zone Line by Stamski & McNary, Inc., dated August 21, 1995;
 - Copy of Previous Site Plan Special Permit #06/29/95-351

Exhibit 1.1 is hereinafter referred to as the Plan.

2 FINDINGS AND CONCLUSIONS

Based upon its review of the exhibits and the record of the proceedings the Board finds and concluded that:

- 2.1 The Site is located within the East Acton Village 2 (EAV-2) Zoning District, Affordable Housing Overlay Sub-District B, and Groundwater Protection District Zone 4.
- 2.2 The proposed use is permitted on the Site in accordance with the Bylaw, including all overlay district requirements.
- 2.3 The property is approximately 1.7 acres in area and currently contains 2 structures. The larger of the two structures is located towards the front of the property and contains commercial uses. The smaller structure is a dwelling unit located towards the rear of the property. The application proposes to remove the existing dwelling in the rear of the property, to expand the commercial building footprint, add a second story with 4 new dwelling units, and add parking spaces.
- 2.4 There is a common driveway stub for a future connection to the abutting property to the south. However, the proposed site plan indicates that a dumpster will be located in this location.
- 2.5 The land use data table on the Plans shows that the FAR is extremely close to the maximum permitted square footage under the Bylaw. Some proposed floor area may not be accounted for in the calculations.
- 2.6 The existing vegetation in the rear of the property is especially important to maintain adequate screening for the Ellsworth Village senior residence development.
- 2.7 The subject property is serviced by Concord Water.
- 2.8 The Board has received comments from various Town departments, which are listed in Exhibit 1.2 above. These comments were considered by the Board in its deliberations, were made available to the Applicant, and are incorporated into this decision as deemed appropriate by the Board.
- 2.9 At the direction of the Board, the Applicant consulted with the Design Review Board (DRB) following the close of the hearing. As a result of this further design review, the Applicant modified the architectural elevation plans (received October 17, 2008) and the DRB submitted supplemental comments dated October 15, 2008.
- 2.10 The Acton Treasurer has advised the Board that property taxes to date for fiscal year 2009 have been paid on the land where the project is proposed.
- 2.11 The proposed use and the Site Plan Special Permit applied for herein is consistent with the Master Plan, will not be detrimental or injurious to the neighborhood in which the use is to take place, provides for convenient and safe vehicular and pedestrian movement within and through the site, provides an adequate number of parking spaces, provides adequate methods of refuse and waste removal from the site, and is in harmony with the purpose and intent of the Bylaw.

Deleted: <#>The application documents state that 4 residential units are proposed. The architectural plans indicate 5 units. The Zoning By-Law limit is 4 units. ¶

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3 BOARD ACTION

Therefore, the Board voted to GRANT the requested Site Plan Special Permit subject to and with the benefit of the following Plan modifications, conditions, and limitations.

3.2 PLAN MODIFICATIONS

The Building Commissioner shall not issue a building permit, nor shall any construction activity begin on the Site, until and unless the Zoning Enforcement Officer confirms that the Plan is revised to include the following additional, corrected, or modified information. Except where otherwise provided, all such information shall be subject to the approval of the Zoning Enforcement Officer. Where approvals are required from persons or agencies other than the Zoning Enforcement Officer, the Applicant shall be responsible for providing evidence of such approvals to the Zoning Enforcement Officer.

- 3.2.1 Identify the common driveway stub as a future connection point and indicate an alternate dumpster location for when the connection occurs. Show a fence with a lockable gate for the dumpster.
- 3.2.2 Correct the land use data table to accurately reflect the number of parking spaces required for the proposed structure without shared parking discount.
- 3.2.3 Provide in the land use data table more comprehensive and complete FAR documentation and tabulation to prove zoning compliance.
- 3.2.4 ~~Provide designer certification that the proposed outdoor lighting plan conforms to the specifications of the zoning By-Law (s. 10.6).~~
- 3.2.5 Add a plan note stating that the proposed clearing limits must be staked on the ground before construction begins, and that the limit of clearing line to the east side of the site, as shown on the landscape plan, shall be rigidly adhered to.
- 3.2.6 The landscape architect shall review the proposed planting list and make any appropriate substitutions consistent with the Water District guidelines promoting drought sensitive species and varieties.
- 3.2.7 Specify on the plan that the developer shall resurface the sidewalk along the Great Road frontage of the Site.
- 3.2.8 Modify the Plan to address the comments and concerns identified by the Acton Engineering Department in a memo dated July 22, 2008.
- 3.2.9 ~~Specify on the architectural plans that all siding, trim, and railings associated with the building addition shall be made of natural materials such as wooden clapboard siding, or visually equivalent materials.~~
- 3.2.10 The Plan shall be modified to comply in all respects with the Bylaw. Unless directed otherwise by this decision, the Plan shall also be modified to comply with all requirements of the Rules, and to address all departmental comments received by the Board in a manner that resolves any concerns raised therein to the satisfaction of the Board.

Deleted: <#>Modify the architectural plans to show no more than 4 dwelling units.¶

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3.3 CONDITIONS

The following conditions shall be binding on the Applicant and its successors and assigns. Failure to adhere to these conditions shall render this Site Plan Special Permit null and void, without force and effect, and shall constitute grounds for the revocation of this Site Plan Special Permit, and of any building or occupancy permit issued hereunder. The Town of Acton may elect to enforce compliance with this Site Plan Special Permit using any and all powers available to it under the law.

- 3.3.1 The applicant shall obtain a Disposal Works Permit from the Board of Health prior to the issuance of the Building Permit.
- 3.3.2 The applicant must obtain an Aquifer Permit from the Board of Health prior to the issuance of a Building Permit.
- 3.3.3 The as-built lighting must also be certified upon completion and prior to a Certificate of Occupancy being issued.
- 3.3.4 The Applicant shall be diligent in complying with the erosion and sediment control plan. The Applicant shall not cause or permit the runoff of water or erosion that results in the flooding or siltation of any street, way or drainage facility owned or maintained by the Town. If such runoff or erosion occurs, the Building Commissioner may order the immediate cessation of any excavation, construction and building activities until the conditions that caused the runoff or erosion have been corrected.
- 3.3.5 All requirements of the Health Director must be met.
- 3.3.6 The applicant shall be diligent and ensure that absolutely no construction debris from the site enter Great Road due to the grade of the subject property.
- 3.3.7 No work on the Site shall begin prior to the issuance of a building permit.
- 3.3.8 All work on the Site shall be conducted in accordance with the terms of this Site Plan Special Permit and shall conform with and be limited to the improvements shown on the Plan as modified herein.
- 3.3.9 All water service lines shall be installed in accordance with the specifications of the Concord Water Supply District.
- 3.3.10 This Decision shall be recorded at the Middlesex South District Registry of Deeds or the Land Court prior to the issuance of a building permit on the Site.

3.4 LIMITATIONS

The authority granted to the Applicant under this special permit is limited as follows:

- 3.4.1 The foregoing required modifications and conditions have been stated for the purpose of emphasizing their importance, but are not intended to be all inclusive or to negate the remainder of the Bylaw and the Rules.
- 3.4.2 This special permit applies only to the Site identified in this decision and to the proposed use and activity as shown on the Plan.
- 3.4.3 Other approvals or permits required by the Bylaw, other governmental boards, agencies or bodies having jurisdiction shall not be assumed or implied by this decision.
- 3.4.4 This Site Plan Special Permit shall lapse if substantial use thereof has not commenced within two years of the filing date of this decision with the Town Clerk, except for good cause, or if construction under this special permit is not continued through to completion as continuously and expeditiously as is reasonable. For construction to continue towards completion as continuously and expeditiously as is reasonable, construction activity shall not rest for more than 1 year. A request to extend said time limits must be made in writing to the Board at least 30 days prior to said expiration dates, and the Board herewith reserves its rights and powers to grant or deny such extension, to issue any

appropriate changes to the special permit and to require any appropriate modifications of the Plan.

- 3.4.5 The Board hereby reserves its right and power to modify or amend the Plan and the terms and conditions of this special permit with or without a public hearing upon the request of the Applicant, his designees or assigns, or upon its own motion.

4 APPEALS

Appeals, if any, shall be made pursuant to MGL, Ch. 40A, S. 17 and shall be filed within 20 days after the date of filing this decision with the Town Clerk.

The Town of Acton Board of Selectmen

Lauren S. Rosenzweig, Chair

This is to certify that the 20-day appeal period on this decision has passed and there have been no appeals made to this office.

Eva Taylor, Town Clerk

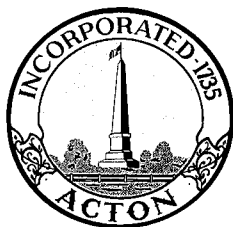
Date

Copies furnished:

Applicant -	Building Commissioner	Health Director
certified mail #	Engineering Administrator	Municipal Properties Director
Town Clerk	Conservation Administrator	Town Manager
Fire Chief	Police Chief	Acton Water District
Owner	Historical Commission	Assistant Assessor
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The Town of Acton Board of Selectmen

Lauren S. Rosenzweig, Chair

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Eva Taylor, Town Clerk

Date

Copies furnished:

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Town Clerk	Conservation Administrator	Town Manager
Fire Chief	Police Chief	Acton Water District
Owner	Historical Commission	Assistant Assessor
Design Review Board	Concord Water Department	

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